

KENDALL TOWN BOARD

Tuesday, February 21, 2023, 7:00 p.m.

Kendall Town Hall – 1873 Kendall Road, Kendall, New York 14476

Supervisor Cammarata called the meeting to order at 7:02 p.m. and led the Pledge of Allegiance.

ROLL CALL

Councilwoman Flow	PRESENT
Councilman Jennings	PRESENT
Councilman Martin	ABSENT
Councilwoman Szozda	PRESENT
Supervisor Cammarata	PRESENT

SUPERVISOR’S REMARKS

Supervisor Cammarata sent the following e-mail for comments:

“The Annual Update Document commonly referred to as the AUD is a required document consisting to about 85 pages that municipalities, have to submit to the State Comptroller’s Office at the end of February each year. Our AUD is in process and will be emailed prior to the deadline to insure we are in good standing with the state.

“The Kendall School District requested the Kendall Town Hall be available to them on for their annual election on May 16, 2023. We will accommodate their request even though it is the same night as our town board meeting. We will have to publish the date change of our May Meeting, perhaps Thursday May 18th with town board approval.

“Tonight we welcome Joule to our meting to continue to present Community Choice Aggregation Program in which the Town of Kendall is considering which will help secure more favorable terms for electricity supply.” (*sic*)

Councilman Jennings introduced a representative from Joule Community Power, who gave a presentation on the Community Choice Aggregation Program and responded to questions about the Program’s details.

CORRESPONDENCE

The Kendall Central School District Superintendent sent a letter requesting approval to use the Town Hall to conduct the annual school budget vote.

A statement by Jay Dorney was received, suggesting that the Town Board table the vote on the proposed short term rental (STR) laws.

A letter was received from Steve Barshov of Sive Paget Riesel Law, opposing the proposed STR laws as presented.

ACCEPTANCE OF MINUTES

Councilman Jennings moved to accept the following minutes as presented:

December 6, 2022

December 20, 2022

December 29, 2022

January 3, 2023

Councilwoman Flow seconded the motion and Supervisor Cammarata declared the motion carried.

PUBLIC COMMENT

Dave Bentley stated that the Town of Clarendon was holding a public hearing that evening regarding their plans to instate regulations on STRs, which he described as very positive towards them and unrestrictive.

June Chippendale asked for clarification about whether or not the proposed laws had been passed, when the vote was going to take place, and if the vote was going to take the form of a referendum. She is in favor of short term rentals and was under the impression that everyone in Kendall also favored them.

Greg Stuckless stated that he purchased property in Kendall shortly before waterfront flooding, the pandemic, and recession created financial difficulties and that operating a short term rental prevented financial ruin. He stated that he felt the proposed laws were punitive and discriminatory, adding that the term "transient" was offensive to Kendall property owners who do not reside in the town year-round.

Chuck Kinney expressed concern that the proposed laws would lead to future regulations that would require permits to host large gatherings on private property. He disagrees with the perceived direction that the town is headed, regarding ordinances and regulation.

Gail Griggs began to ask a question relating to the political affiliations of the Town Board and residents, with a reference to "big government." Her question was not completed, as

the Supervisor interjected to state that political party affiliations were irrelevant to the issue at hand and questions regarding them would not be answered. She was offered the option of asking a different question, which she did not do at that time.

Trudy Slocum asked for a follow-up on the progress developing Water District 11. The Supervisor responded that the State Comptroller's threshold for the debt burden that can be placed on individual taxpayers is \$1,040 and that all the options that were presented by LaBella Associates exceeded that threshold and cited \$1400 and \$1500 as examples. This is an issue that is being faced statewide. At present, funding from grants has not been enough to sufficiently lower the cost of development, and the Town Board is waiting for the USDA's new median income levels and thresholds, which had been expected in October, 2022 but were not released and are now expected October, 2023. All Water Districts currently in Kendall, except for Water District 9, have received funding from the USDA, which has the lowest interest rates available. The Town Board is motivated to complete development and the Supervisor has plans to ask for Federal funding to speed up the process.

Beverly Robinson asked for clarification about what was meant by the debt burden to the taxpayer and whether the \$1400-\$1500 cited was the installation cost. The Supervisor replied that it would be an annual cost, included as a line item on the Town and County property tax bills. She asked if it would be possible for residents of the proposed district to fund the installation privately and offered to help in any way that she could to accelerate the project. The Supervisor reasserted that the Town Board is motivated to complete Water District 11.

A member of the public who did not state his name and address disagreed with the assertion that the proposed laws are in the interest of the entirety of Kendall because the regulations are more stringent for the waterfront districts than the rest of the town. He stated his belief that the proposed laws are elitist and exclusionary against those who are unable to afford to live on the lakefront year-round.

David Bentley asked about a \$265,000 grant that was mentioned at the previous Town Board meeting and when the deadline was to use those funds. Supervisor Cammarata replied that the deadline was 2025 and assured him that the town would not lose those grant funds.

Ken DeRoller expressed concern that the Town Board was not acting in alignment with the development goals of the Kendall Yates Carlton (KYC) Local Waterfront Revitalization Program (LWRP), of which he was Chairman. A new LWRP, to include Lyndonville, is in development, and consistency across the municipalities included in the current and proposed Revitalization Programs is vital. He stated that the Town Board's concerns about STRs and their regulation had not come up in the past two years of work on the LWRP and recommended the Town Board slow down the process of passing the proposed laws to ensure alignment with current and future LWRPs.

Joe LoCicero had a large gathering on his property, which he took steps to make sure was as unobtrusive as possible to his neighbors. He stated that there is a difference between owners having occasional gatherings and a rental property potentially having large gatherings on a frequent, even weekly basis.

Nancy Lyon received a notification that a Zoom call was scheduled with the Town Board to negotiate and avoid litigation, however, the call was cancelled shortly before the scheduled date. She asked if there was a reason why it had been cancelled. The Supervisor informed her that the Town Board had waited a long time and the opportunity had passed. He declined to go into further detail at that time and stated that he would talk to her about why the call had been cancelled later. She mentioned that the STR owners were still open to meeting with the Town Board. The Supervisor replied that the doors are open any time, mentioned that discussion would not be with the entire Board, because of Open Meeting Laws, and stated that dialogue is important. Ms. Lyon expressed disappointment that there has not been more dialogue throughout the development of the proposed laws.

George Giordano, a new resident to the town, believes that the laws impacts the various zoning districts of Kendall unequally, citing regulations on property maintenance and aesthetics, which apply to properties being operated as STRs, but not all properties in the town. His opinion was that the ordinances in the proposed laws should be imposed universally or not at all.

Karen Patterson did not think that either side had anything new to say. She and her neighbors believe that they have done everything they can to make it clear that their street is not a good fit for STRs, as their goal is to preserve the neighborhood's current character. She expressed remorse that the controversy over the laws had driven a wedge in Kendall among neighbors and hoped that there would be healing.

Kathy Newell agreed with Karen Patterson's comment and thanked the Town Board for all the work they did behind the scenes, listening to the concerns of residents, and coming to what she felt was a good compromise.

Rich Miller, a local real estate businessman, related an anecdote about a man from California who purchased a property on the waterfront after staying in a Kendall STR. He stated one never knows who might vacation in a STR and decide to move there permanently. He also spoke emphatically in favor of preserving property rights and that he believes the laws to be ill-advised, discriminatory and that the Town Board has opened themselves up to litigation. He suggested that residents who have conflicts with STRs in their neighborhoods form Homeowner's Associations and that the Town Board should table the laws or present them as a referendum.

Ellen Pelkey stated that she and her husband had purchased an adjacent property to renovate, with the intention to operate as a STR. She agreed with other commenters about the importance of preserving private property rights and the undesirability of the Town Board being involved in lawsuits. She suggested that neighbors band together to prevent and resolve issues and to alert authorities when needed.

Dave Bentley stated that he has been to a lot of Town Board meetings and is knowledgeable about what has been said at previous meetings. At a previous meeting, he says, the Supervisor referred to Kendall as a "cottage community" and that cottages are used short-term, rather than year-round. The Supervisor disagreed with his interpretation of the definition of a cottage community.

Dave Oschmann commented that when he was growing up on Bald Eagle Drive, the majority of properties were transient, with only a handful of year-round residents. He added that change should be embraced.

Nadine Hanlon invoked the memory of her father, who had been Supervisor of Kendall for over 30 years. She said that her children want to stay in Kendall and asked that the Town Board work cooperatively with the Local Waterfront Revitalization Programs and other towns and reconsider the harshness of the proposed laws, which she felt are too harsh for a town like Kendall.

Donald Pfister expressed concern that in the future, STRs might outnumber year-round residences in waterfront neighborhoods. He pointed out that current ordinances already differ between waterfront zoning districts and other parts of the town.

Bob McGregor asked what the sole purpose was for licensing STRs. The Supervisor declined to answer.

Gail Griggs commented on the number of properties on the lakefront that are not lived in year-round, are vacant, used for storage, or are being used outside of zoning regulation. She expressed concern about the fairness of restricting the operation of STRs but seemingly ignoring the issues stemming from vacant or improperly used properties.

A member of the public who did not give her name and address stated that she likes Kendall and wants others to think of it as a welcoming community. She expressed concern that larger families would not be able to visit Kendall because of a lack of rentals that meet their needs and felt that restricting STRs was not in the spirit of hospitality.

Jack Fox asked about surveyors on Lomond Shores, progress on the Sewer District, and the status of the proposed laws. The Supervisor directed him to the Town Clerk and himself for that information.

Rich Miller expressed concern about the proposed laws' requirement that STRs have driveways and that vehicles not park on lawns, as many waterfront properties do not have them. His concern was that he would be required to have a driveway installed at his own property. The Supervisor responded that it was irrelevant because Mr. Miller's property is not being operated as a STR. Mr. Miller asked if he would be prevented from operating one because of the lack of a driveway. The Supervisor declined to answer that question.

REPORTS OF COMMITTEES, BOARDS, AND DEPARTMENT HEADS

Standing Committees

Public Safety/Emergency Services & Occupational Safety – Martin

Buildings & Grounds – Martin

Highway – Martin

No report given

Community Relations – Flow

Culture & Recreation – Flow

Information Services – Flow

Forms for the 2023 Youth Worker Awards are available. The Awards are given out by the County and recognizes volunteers and workers.

Human Resources & Ethics – Szozda

Employee Benefits – Szozda

No Report

Planning, Zoning & Agriculture – Jennings

The Planning board is continuing to work on the town's Comprehensive Plan. Grant money is sought to underwrite outside assistance with this program. There has been discussion regarding streamlining the process for minor rezoning issues. There are upcoming rezoning requests regarding migrant housing, a warehouse, and the demolition and rebuilding of a barn.

Finance, Taxes & Special Districts – Cammarata

An audit of the town's finances will be conducted in March or April. In August there will be an audit of the Justices.

Orleans County Legislature – John Fitzak

For major infrastructure projects like Water and Sewer Districts, the best thing for residents to do is to organize a grassroots letter-writing campaign to County, State, and Federal representatives seeking funding.

Boards

Planning Board – B. Newell, Chair

Suggested thanking Steve Catone for his service to the Planning Board. Supervisor Cammarata responded that it could be done at the next meeting.

Zoning Board – P. Bolton, Chair

Department Heads

Assessor – L. Hewitt

Code Enforcement – P. Hennekey

Highway – W. Kruger

Historian – L. Richardson – Annual report submitted

Recreation – M. Werth – Annual report submitted

Town Clerk – A. Richardson – written report submitted, including an annual summary

Town Justice – D. Kluth – written report submitted

Supervisor – A. Cammarata – written report submitted

RESOLUTIONS

Councilman Jennings made the following motion, which was seconded by Councilwoman Flow:

RESOLUTION 42-0223 SOLAR PROJECT PROPOSAL FOR CONSULTING SERVICES WITH LABELLA ASSOCIATE

Be it resolved, that the Kendall Town Board authorizes Supervisor Cammarata to sign an agreement with LaBella Associates, authorizing LaBella Associates to provide professional services during construction of two solar projects within the Town of Kendall. LaBella Associates will provide on call/as needed services to ensure the solar projects are constructed in accordance with the approved plans.

Supervisor Cammarata elaborated that the services provided by LaBella Associates are not funded by the Town, but by the solar companies. He called for a vote, resulting in all ayes, and declared the motion carried.

Councilman Jennings made the following motion, which was seconded by Councilwoman Szozda:

REOLUTION 43-0223 BUDGET TRANSFER

Be it resolved to reduce General Expense Account A1950.40 Taxes on Property by \$100.00, and to increase General Expense Account A1910.40 Unallocated Insurance by \$100.00.

Supervisor Cammarata elaborated that the Town estimates the cost of insurance and the estimate was short \$100.00, leading to the Resolution being made. He called for a vote, which resulted in all ayes, and declared the motion carried.

Councilwoman Flow made the following motion, which was seconded by Councilman Jennings:

RESOLUTION 44-0223 CARPET REPLACEMENT AWARD TO CHRISTIE CARPETS

Whereas the Kendall Town Board received three quotes for carpet tiles and the lowest quote received was from Christie Carpets, 4414 Dewey Avenue, Rochester, New York, so then

Now, be it resolved, that the Kendall Town Board authorizes Supervisor Cammarata to sign an agreement with Christie Carpets for installation of carpet tiles in both the Town Clerk's and Supervisor's Offices.

Supervisor Cammarata mentioned that the carpet in both offices was very old, potentially original and that the new carpet would be funded with money from the Troutburg PILOT, which had been larger than expected. He called for a vote, which resulted in all ayes, and declared the motion carried.

Councilwoman Flow made the following motion, which was seconded by Councilwoman Szozda:

RESOLUTION 45-0223 MINDY ZYRA APPOINTMENT TO THE KENDALL TOWN PLANNING BOARD

Be it resolved, that the Kendall Town Board appoints Mindy Zyra, 16713 Banner Beach Road, to the Kendall Town Planning Board for a term which expires 12-31-2027.

Supervisor Cammarata called for a vote, which resulted in all ayes, and declared the motion carried.

Councilwoman Flow made the following motion, which was seconded by Councilman Jennings

RESOLUTION 46-0223 ANDREW KLUDT AS AN ALTERNATE TO THE KENDALL TOWN PLANNING BOARD

Be it resolved, that the Kendall Town Board appoints Andrew Kludt as an alternate member of the Kendall Town Planning Board, for a term which expires 12-31-2028.

Supervisor Cammarata welcomed Mr. Kludt back to the Planning Board. The Town Board felt that representation of Kendall farmers was important. He called for a vote, which resulted in all eyes, and declared the motion carried.

Supervisor Cammarata made the following motion, which was seconded by Councilwoman Szozda:

RESOLUTION 47-0223 ISSUING NEGATIVE DECLARATION AND LOCAL WATERFRONT REVITALIZATION PROGRAM CONSISTENCY DETERMINATION FOR REVISION OF PROPOSED LOCAL LAW 1 OF 2023 AND LOCAL LAW 2 OF 2023

WHEREAS, before the Town of Kendall Town Board (“Board”) are revisions to the proposed local laws amending the Town of Kendall Zoning Code (“Zoning Code”) to regulate the use of transient and short-term rentals in certain zoning districts in the Town of Kendall (“Local Law No. 1 of 2023”) and amending the Kendall Town Code (“Town Code”) to license transient or short-term rentals in the Town of Kendall (“Local Law No. 2 of 2023”) (the “Action”); and

WHEREAS, the Town Board of the Town of Kendall (the “Town Board”) must comply with SEQRA and its implementing regulations, at 6 N.Y.C.R.R. Part 617, in the review of the Project and

WHEREAS, the Town Board is the Lead Agency pursuant to SEQRA; and

WHEREAS, the Town Board has duly considered the Action, the Full Environmental Assessment Form, the criteria for determining significance set forth in 6 N.Y.C.R.R. 617.7 (c) of the SEQRA regulations, the administrative record, public comments, and other information deemed appropriate; and

WHEREAS, the Town Board has identified the relevant area of environmental concern, has taken a hard look at these areas, and has made a reasoned elaboration of the basis for its determination and

WHEREAS, the Town Board has completed a consistency review of the Action in light of the Town’s Local Waterfront Redevelopment Program (“LWRP”) and pursuant to the Town of Kendall Local Law No. 1 of 1996:

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Kendall that:

1. The Action will not result in any large and important impacts and, therefore it will not have a significant adverse impact on the environment.
2. The negative declaration, attached as Exhibit 1, incorporated herin by reference, is issued and adopted for the reasons stated in the attached negative declaration.
3. The Action is consistent with the Town’s LWRP.

4. The LWRP consistency determination, attached Exhibit 2, incorporated herein by reference, is issued and adopted for the reasons stated in the attached consistency determination.
5. This resolution is effective immediately.

Supervisor Cammarata called for a roll call vote:

Councilwoman Flow AYE

Councilman Jennings AYE

Councilman Martin ABSENT

Councilwoman Szozda AYE

Supervisor Cammarata AYE

Supervisor Cammarata declared the motion carried.

Supervisor Cammarata made the following motion, which was seconded by Councilwoman Szozda:

RESOLUTION 48-0223 ADOPTING LOCAL LAW No.1 OF 2023 AND LOCAL LAW No.2 OF 2023

WHEREAS, the Town Board of the Town of Kendall (“Town Board”) has considered and evaluated two proposed local laws amending the Town of Kendall Zoning Code (“Zoning Code”) to regulate the use of transient and short term rentals in certain zoning districts in the Town of Kendall (“Local Law 1 of 2023”) and amending the Kendall Town Code (“Town Code”) to license transient or short term rentals in the Town of Kendall (Local Law 2 of 2023”);

WHEREAS, the Town Board, acting as Lead Agency under the State Environmental Quality Review Act (SEQRA”) has performed the required environmental review and has issued a Negative Declaration for the proposed local laws; and

WHEREAS, the Town Board referred the proposed Local Law No 1 of 2023 to the Town of Kendall Planning Board (“Planning Board”), which responded with a recommendation for approval, and

WHEREAS, the Town Board referred the proposed local laws to the Orleans County Planning Board, in accordance with General Municipal Law 2239-m, which responded with a recommendation to deny approval; and

WHEREAS, the Town Board called for a public hearing on the proposed local laws, which was properly noticed to the public; and

WHEREAS, in accordance with its public notice the Town Board conducted the public hearing on January 10, 2023, where all interested parties were allowed to address the proposed local laws:

NOW THEREFORE BE IT RESOLVED by the Town Board of the Town of Kendall that:

1. The attached local laws are adopted in their entirety.
2. The attached local laws shall be effective upon filing with the Secretary of State to the Municipal Home Rule Law.

Supervisor Cammarata called for a roll call vote:

Councilwoman Flow AYE

Councilman Jennings AYE

Councilman Martin ABSENT

Councilwoman Szozda AYE

Supervisor Cammarata AYE

Supervisor Cammarata declared the motion carried.

Councilwoman Flow made the following motion, which was seconded by Councilman Jennings:

PAYMENT OF CLAIMS

General Fund	Abstract 2	\$53,461.25	Vouchers 43-78, 81, 118, 119
Highway Fund	Abstract 2	\$35,328.50	Vouchers 46, 77, 84-117
Light District One	Abstract 2	\$370.90	Voucher 78
Light District Two	Abstract 2	\$234.81	Voucher 78
Light District Three	Abstract 2	\$121.99	Voucher 78
Water District Six	Abstract 2	\$3,200.29	Vouchers 79, 80, 81
Water District Eight	Abstract 2	\$110.00	Voucher 82
Water District Ten	Abstract 2	\$110.00	Voucher 83
TOTAL:		\$92,937.74	

Supervisor Cammarata called the motion to a vote, which resulted in all ayes, and declared the motion carried.

PENDING ISSUES

Morton Union Cemetery – Councilwoman Flow expects news in March.

Solar Projects – There is no further information to report.

Thompson Drive Community Park Initiatives – Letters have been sent to the Dormitory Authority of the State of New York seeking permission to use funding for amenities.

Brush and Weeds Law – Will be addressed by the Planning Board and once the Planning Board and Code Enforcement have given their opinions, a law will be drafted and a public hearing held.

Sewer Project – Discussion about the ability to get funding for the project is continuing.

Supervisor Cammarata thanked everyone for attending the meeting and their passion regarding Local Laws 1 & 2 of 2023.

With no further business brought before the Board, Councilwoman Flow made a motion to adjourn, which was seconded by Councilman Jennings. Supervisor Cammarata closed the meeting at 8:30 p.m.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Lydia Richardson". The signature is written in black ink and is positioned above the printed name.

Lydia Richardson, Deputy Town Clerk